

BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Amended Accusation  
Against:

WADE VINCENT SHANG  
108 Parkgrove Drive  
South San Francisco, CA 94080

Certified Public Accountant  
Certificate No. CPA 48092

Respondent

Case No. AC-2004-20

OAH No. N2006060762

**PROPOSED DECISION**

On November 13, 2006, Administrative Law Judge M. Amanda Behe, State of California Office of Administrative Hearings, heard this matter at the United States Penitentiary at Lompoc, California.

Complainant was represented by Jeanne C. Werner, Deputy Attorney General.

Respondent represented himself.

The record remained open for receipt of exhibits. Complainant's Exhibits were received November 20, 2006. As agreed at hearing, the original Declaration of John E. O'Connor, a copy of which had been received as Exhibit 7, was added to Exhibit 7. A copy of Regulation 99 was marked as Exhibit 9, and official notice was taken of Exhibit 9. Respondent stated at hearing that he intended to forward twenty pages of the U.S. Attorney's Brief on Appeal, but he failed to do so. The matter was submitted on November 27, 2006.

**FACTUAL FINDINGS**

1. Complainant Carol Sigman is the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs, and brought the Accusation and Amended Accusation pursuant to Business and Professions Code section 5100 solely in her official capacity.

2. On May 29, 1987, the Board issued Certified Public Accountant Certificate No. CPA 48092 to respondent Wade Vincent Shang. The certificate was in full force and effect at all times relevant to the charges in the Accusation. The license expired on July 31, 2005, and has not been renewed.

3. On July 18, 2003, in the United States District Court, Northern District of California, San Francisco Division, in a case captioned *United States of America v. Wade Vincent Shang*, Case No. CR-02-0239-WHA, respondent was convicted by jury verdict of three felony convictions of 26 U.S.C. § 7201 (tax evasion) for the 1996, 1998 and 1999 tax years. On January 20, 2004, he was sentenced to two years in federal prison, a fine of \$10,000, and two years of supervised release. He filed a Notice of Appeal from the judgment of conviction and sentence on January 20, 2004.

On November 22, 2004, the United States Court of Appeals for the Ninth Circuit issued its Memorandum opinion in *United States of America v. Wade Vincent Shang*, C.D. No. CR-02-0239-WHA. The court affirmed respondent's conviction for the tax years 1996 and 1998, reversed the conviction on the 1999 count, and remanded the case for resentencing. The District Court imposed judgment on April 19, 2005, Amended Judgment in *United States of America v. Wade Vincent Shang*, Case No. CR-02-0239-WHA, finding respondent guilty on Counts Two and Four of the Indictment regarding the 1996 and 1998 tax evasion charges in violation of 26 U.S.C. § 7201. Respondent was sentenced to serve 21 months in prison and ordered to be on supervised release for a term of three years. He was also ordered to comply and cooperate with the Internal Revenue Service in a good-faith effort to pay any outstanding tax liability, was ordered to timely and accurately file all future income tax returns required by law during the period of supervision, was ordered not to be employed in a fiduciary capacity without the prior approval of the probation officer, and was ordered to pay total criminal monetary penalties in the amount of \$10,200.

The circumstances of respondent's crimes were that he manipulated payments received from insurance companies in the course of his law practice to make it appear that he earned less as an attorney than he did. Respondent underreported his income and underpaid his federal income taxes for 1996 and 1998, thus committing crimes of fiscal dishonesty. Pursuant to the criteria set forth in California Code of Regulations, title 16, section 99 the felonies of which respondent was convicted are substantially related to the qualifications, function or duties of a CPA in that they evidence present or potential unfitness to perform the functions authorized by his certificate in a manner consistent with public welfare.

The rules governing the recognition of certified public accountants representing clients before the Internal Revenue Service are found at 31 Code of Federal Regulations section 10.0 et seq. Those provisions, commonly termed "Circular 230," are akin to rules of professional conduct for licensees. Section 10.50 provides that the Secretary of the Treasury may, after notice and an opportunity for a proceeding, suspend or disbar any practitioner for disreputable conduct. Section 10.51, subdivision (f), provides that disreputable conduct includes:

Willfully failing to make a Federal tax return ..., willfully evading, attempting to evade, or participating in any way in evading or attempting to evade any assessment or payment of any Federal tax...

Complainant established that a certified public accountant's misrepresentation of income and underpayment of taxes is professional misconduct. Respondent's assertion that to have mistakes on one's income tax returns is not misconduct was contrary to the evidence of his convictions, and was not persuasive.

4. Respondent's felony conviction of tax evasion is a reportable event within the meaning of Business and Professions Code section 5063 and California Code of Regulations, title 16, section 99. Respondent failed to notify the Board of that reportable event, and has not made such a report as of the date of the subject hearing.

Respondent testified that he did not violate section 5063 in that the Board already had knowledge of "this aspect of the case." He presented no credible direct evidence to support his assertion. Moreover, the responsibility of a licensee to comply with section 5063 is not relieved by any knowledge on the part of the Board or its staff.

5. Respondent holds membership in the State Bar of California, Bar License No. 128409. On October 16, 2003, respondent's right to practice law was suspended by the State Bar Court as a result of his felony convictions.

Respondent testified that the State Bar action is currently "under abatement" but the documentation he presented indicated only that the status conference and hearing on his appeal were continued and rescheduled as a result of respondent's requests for at least three continuances. That respondent has not acted expeditiously to pursue his appeal of the suspension of that license is not grounds to delay the Board's subject proceeding concerning his accountancy certificate.

6. Respondent testified that the Court of Appeal erred in not overturning the entirety of his conviction, and that the judgment of conviction was not supported by the evidence because the U.S. Attorney inaccurately used the net worth basis to prove the case. The numerous arguments and disputes with the jury verdict to which respondent testified were considered by, and rejected by, the United States Court of Appeals for the Ninth Circuit in its Memorandum opinion in *United States of America v. Wade Vincent Shang*, C.D. No. CR-02-0239-WHA. No collateral attack upon that decision can be entertained in the subject administrative proceeding.

7. Respondent was asked on cross-examination when he has used his CPA license in the last ten years. He first testified that his use was the preparation of his own income taxes, which he claimed was "actually not a use of my license, but I have general knowledge of preparing income taxes." He admitted that he told an IRS investigative auditor that his legal practice included a tax practice. He attempted to minimize that admission by

the statements that he meant that he completed his own tax returns, and that he "did not receive any substantial compensation for the tax advice [he] gave clients." His testimony was not credible.

8. Respondent acknowledged that his license to practice law in Texas was revoked as a result of his conviction.

The California Department of Real Estate has filed an Accusation seeking revocation or discipline of his broker's license. Respondent recently obtained a continuance of that proceeding.

Respondent admitted that he has been sued in "a few" civil proceedings filed by "people trying to take advantage of my situation." The particulars of those cases were not further described.

9. Respondent testified that the U.S. Attorney could only find twelve of his hundreds of clients willing to testify against him. In his personal injury law practice he received referrals from a chiropractor, and sent his clients to the same chiropractor. He used a translator for his Tagalog-speaking clients, who claimed they were injured in vehicle accidents. He took the cases on contingency and received settlements and insurance payments on behalf of clients, and paid 1/3 to 1/5 of the sums in cash to his clients.

10. As noted above, in the April 19, 2005, Amended Judgment in *United States of America v. Wade Vincent Shang*, Case No. CR-02-0239-WHA, respondent was ordered to comply and cooperate with the Internal Revenue Service in a good-faith effort to pay any outstanding tax liability. Respondent admitted that he has not made any such effort to pay his taxes because he disagrees that any sums are owed.

11. The board has incurred costs totaling \$8,761.28 in the investigation and prosecution of this matter. The total consists of investigative costs of \$1,137.28 and legal fees of \$7,624.00. These amounts are found to be reasonable. No evidence was presented to show that respondent cannot pay these costs or that payment would cause an unreasonable financial hardship that cannot be remedied through a payment plan.

Respondent objected to any portion of the claimed costs which may be related to a continuance request by the Deputy Attorney General. No costs associated with the continuance request are claimed or sought.

#### LEGAL CONCLUSIONS

1. Business and Professions Code section 5100, subdivision (a), provides that the board may revoke, suspend or refuse to renew any certificate granted if the holder has been convicted of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant. Clear and convincing evidence to a reasonable certainty established cause for revocation of respondent's certificate pursuant to

Business and Professions Code section 5100, subdivision (a), by reason of the matters set forth in Finding 3.

2. Business and Professions Code section 5100, subdivision (g), provides that the board may revoke, suspend or refuse to renew any certificate granted for willful violation of the Accountancy Act or any rule or regulation promulgated by the Board. Clear and convincing evidence to a reasonable certainty established cause for revocation of respondent's certificate pursuant to Business and Professions Code section 5100, subdivision (g), and California Code of Regulations, title 16, section 99, by reason of the matters set forth in Finding 3.

3. Business and Professions Code section 5100, subdivision (h), provides that the board may revoke, suspend or refuse to renew any certificate granted if the holder has had his right to practice before any governmental body or agency suspended or revoked. Clear and convincing evidence to a reasonable certainty established cause for revocation of respondent's certificate pursuant to Business and Professions Code section 5100, subdivision (h), by reason of the matters set forth in Findings 3, 5 and 8.

4. Business and Professions Code section 5063 requires that a licensee report to the Board in writing the occurrence of a felony conviction; a crime related to the qualifications, functions or duties of a certified public accountant; or the preparation or dissemination of false, fraudulent, or materially misleading financial information. Clear and convincing evidence to a reasonable certainty established cause for revocation of respondent's certificate pursuant to Business and Professions Code section 5063 by reason of the matters set forth in Finding 4.

5. Business and Professions Code section 5107, subdivision (a), provides that the holder of a certificate found to have violated the licensing law may be required to pay the reasonable costs of investigation and prosecution of the case. Section 5107, subdivision (e), provides that the amount of reasonable costs may be reduced or eliminated upon a finding that respondent cannot pay all or a portion of the costs or that payment would cause an unreasonable financial hardship that cannot be remedied through a payment plan.

Cause exists pursuant to Business and Professions Code section 5107, subdivision (a), to require respondent to pay \$8,761.28, the reasonable costs of investigation and prosecution. No evidence was presented that would warrant reduction of this amount. Pursuant to section 5107, subdivision (c), these costs are payable 120 days after the final decision in this case unless this time is extended by the board.

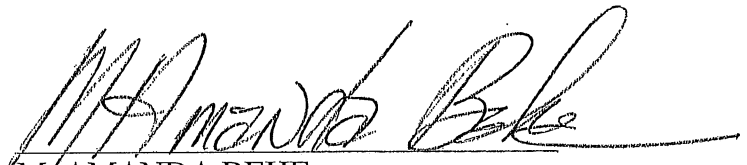
6. Respondent presented no evidence of rehabilitation. Wholly separate from the particulars of his crimes, he continues to fail to submit the required notification of a reportable event. It would be against the public interest to permit respondent to retain his certificate upon even the strictest probationary terms.

ORDER

1. Certified Public Accountant Certificate No. CPA 48092 issued to respondent Wade Vincent Shang is revoked.

2. Within 120 days of the effective date of this Decision, respondent Wade Vincent Shang shall pay to the Board the sum of \$8,761.28.

Dated: 1/2/2007

A handwritten signature in black ink, appearing to read "M. Amanda Behe", written over a horizontal line.

M. AMANDA BEHE  
Administrative Law Judge  
Office of Administrative Hearings

RECEIVED  
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CALIFORNIA BOARD  
OF ACCOUNTANCY

BEFORE THE  
CALIFORNIA BOARD OF ACCOUNTANCY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Amended Accusation  
Against:

WADE VINCENT SHANG  
108 Parkgrove Drive  
South San Francisco, CA 94080

Certified Public Accountant  
Certificate No. CPA 48092

Respondent

Case No. AC-2004-20

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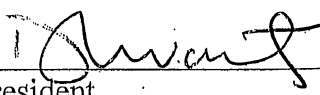
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby  
adopted by the BOARD OF ACCOUNTANCY as its Decision in the above-entitled matter.

This Decision shall become effective on April 29, 2007.

IT IS SO ORDERED March 30, 2007.

BOARD OF ACCOUNTANCY

  
\_\_\_\_\_  
President

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JEANNE C. WERNER, State Bar No. 93170  
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8 **BEFORE THE**  
**CALIFORNIA BOARD OF ACCOUNTANCY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. AC-2004-20

12 WADE VINCENT SHANG  
103 Parkgrove Drive  
13 So. San Francisco, CA 94080

OAH No. N2006-060762

14 Certified Public Accountant Certificate  
No. CPA 48092

**FIRST AMENDED ACCUSATION**

15 Respondent.  
16

17 Complainant alleges:

18 **PARTIES AND JURISDICTION**

19 1. Complainant Carol Sigmann brings this First Amended Accusation under  
20 the authority of Section 5100 of the Business and Professions Code,<sup>1</sup> solely in her official  
21 capacity as the Executive Officer of the California Board of Accountancy, Department of  
22 Consumer Affairs. This First Amended Accusation replaces the Accusation filed on March 17,  
23 2004, nunc pro tunc.

24 2. On or about May 29, 1987, the California Board of Accountancy issued  
25 Certified Public Accountant Certificate Number CPA 48092 to Wade Vincent Shang, the  
26

27 1. All statutory references are to the Business and Professions Code unless otherwise  
28 indicated.



Respondent herein. The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought herein and expired on July 31, 2005. It has not been renewed.

3. Section 5100 of the Business and Professions Code provides, in relevant part, that, after notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted, or may censure the holder of that permit or certificate, for unprofessional conduct which includes, but is not limited to, one or any combination of the causes specified therein, including:

5100 (a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

5100 (g) Willful violation of the Accountancy Act or any rule or regulation promulgated by the Board.

5100(h) Suspension or revocation of the right to practice before any governmental body or agency.

4. Under Board Rule 99<sup>2</sup>, a crime or act is substantially related to the qualifications, functions, or duties of a CPA if, to a substantial degree, it evidences present or potential unfitness to perform the functions authorized by the licensee's certificate or permit in a manner consistent with the public health, safety, or welfare.

5. Section 5106 provides in pertinent part that a conviction means a plea of guilty...(and) any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

6. Code section 5063 requires that a licensee report to the Board in writing

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2. Codified at Title 16, California Code of Regulations, section 99.

1 the occurrence of certain events within 30 days of the date the licensee has knowledge of these  
2 events. Among the events are the following: a felony conviction; a crime related to the  
3 qualifications, functions, or duties of a certified public accountant; and a crime involving theft,  
4 embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the  
5 preparation, publication, or dissemination of false, fraudulent, or materially misleading financial  
6 statements, reports, or information. As used in Code section 5063, a conviction includes a  
7 finding of guilt even though that conviction may not be final or sentence actually imposed until  
8 appeals are exhausted.

9           7. Pursuant to Code section 118(b), the suspension, expiration, or forfeiture  
10 by operation of law of a license issued by the Board shall not during any period within which it  
11 may be renewed, restored, reissued or reinstated, deprive the Board of its authority to institute or  
12 continue a disciplinary proceeding against the licensee upon any ground provided by law or to  
13 enter an order suspending or revoking the license or otherwise taking disciplinary action against  
14 the licensee on any such ground. Code section 5070.6 provides that an expired permit may be  
15 renewed at any time within five years after its expiration upon compliance with certain  
16 requirements.

17           8. Code section 5107 provides for recovery by the Board of all reasonable  
18 costs of investigation and prosecution of the case, including, but not limited to, attorney's fees in  
19 specified disciplinary actions. A certified copy of the actual costs, or a good faith estimate of  
20 costs signed by the Executive Officer, constitutes prima facie evidence of reasonable costs of  
21 investigation and prosecution of the case.

## 22 FOR CAUSES FOR DISCIPLINE

### 23 First Cause for Discipline - Conviction of a Felony 24 (Bus. & Prof. Code Section 5100(a))

25           9. Respondent is subject to disciplinary action pursuant to Code section  
26 5100(a) in that, on July 18, 2003, he was convicted, by jury verdict, in the United States District  
27 Court, Northern District of California, San Francisco Division, in *United States of America v.*  
28 *Wade Vincent Shang*, Case No. CR-02-0239-WHA, of three felony violations of 26 U.S.C. § 7201

(tax evasion) for the 1996, 1998, and 1999 tax years. Evidence was presented showing that Respondent, in his capacity as a personal injury attorney, received checks from insurance companies to settle his clients' claims. After receiving the checks, Respondent arranged to meet certain of his clients at a bank where he had the clients endorse two checks: one from an insurance company for deposit to Respondent's attorney-client trust account, and another check from the trust account to the client, which check was for an amount in excess of the client's portion of the settlement funds. After paying the client his or her share of the settlement proceeds in cash (in an amount less than that described on the client's check), Respondent kept the balance of the cash. However, the scheme created the false impression that Respondent had greater business costs than he really incurred, and, as a result, he under-reported his income and underpaid the income tax owing thereon.

10. Because the Respondent was convicted of tax evasion and abused his position of public trust as an attorney and Certified Public Accountant, as well as attempted to obstruct justice by influencing witnesses, Judge William H. Alsup sentenced the Respondent to two years in federal prison, a fine of \$10,000, and two years of supervised release. Respondent was sentenced on January 20, 2004. Respondent has filed a Notice of Appeal from the judgment of conviction and sentence on January 20, 2004.

On November 22, 2004, the United States Court of Appeals for the Ninth Circuit issued its Memorandum opinion in *United States of America v. Wade Vincent Shang*, Case No. 04-10063, C.D. No. CR-02-00239-WHA. The court affirmed Respondent's conviction for the tax years 1996 and 1998, reversed the conviction on the 1999 count, and remanded the case for resentencing. The District Court imposed judgment on April 19, 2005, Amended Judgment in a Criminal Case, in *United States of America v. Wade Vincent Shang*, Case No. CR02-0239-01 WHA, finding the Respondent guilty on counts two and four of the Indictment (re: the 1996 and 1998 tax evasion charges) in violation of 26 U.S.C. §7201. Respondent was sentenced to serve 21 months in prison and ordered to be on supervised release for a term of three years. Respondent was, inter alia, ordered to comply and cooperate with the IRS in a good-faith effort to pay any outstanding tax liability, was ordered to timely and accurately file all future income tax returns

1 required by law during the term of supervision, was ordered not to be employed in a fiduciary  
2 capacity without the prior approval of the probation officer, and was ordered to pay total criminal  
3 monetary penalties in the amount of \$10,200.00.

4 11. Incorporating by reference the allegations in paragraphs 9 and 10,  
5 Respondent's certificate is subject to discipline under Code section 5100(a) in that the felony  
6 convictions are crimes substantially related to the qualifications, functions or duties of a CPA  
7 within the meaning of Board Rule 99. Respondent manipulated insurance payments in order to  
8 make it appear that he earned less as an attorney than he did, resulting in his under-reporting his  
9 income, and underpaying his federal income taxes for the years 1996 and 1998.

10 **Second Cause for Discipline - Suspension of Practice Rights**  
11 (Bus. & Prof. Code Section 5100(h))

12 12. Incorporating by reference the matters alleged in paragraphs 10 and 11,  
13 Respondent is subject to disciplinary action under section 5100(h) in that, on or about October  
14 16, 2003, Respondent's right to practice law (State Bar License No. 128409) in the State of  
15 California was suspended by the State Bar Court as a result of the criminal conviction.

16 **Third Cause for Discipline - Reportable Event Violation**  
17 (Bus. & Prof. Code Section 5100(g)/5063)

18 13. Complainant realleges the matters set forth in paragraphs 9 and 10. As set  
19 forth therein, Respondent was convicted of three felony counts related to the qualifications,  
20 functions or duties of a CPA. This conviction related to Respondent's manipulation of financial  
21 records regarding his income, leading to his preparation and filing of false income tax returns,  
22 and constitutes a reportable event within the meaning of Code section 5063 and Board Rule 99.

23 14. Respondent has failed to notify the Board, pursuant to Code section 5063,  
24 of the reportable event referenced in paragraph 9 herein, constituting cause for discipline of his  
25 license pursuant to Code section 5063 in conjunction with Code section 5100(g).

26 **OTHER MATTERS**

27 15. Pursuant to Code section 5107, it is requested that the administrative law  
28 judge, as part of the proposed decision in this proceeding, direct Respondent to pay to the Board

all reasonable costs of investigation and prosecution in this case, including, but not limited to, attorneys' fees.

16. It is charged, in aggravation of penalty, that the Respondent abused his position of public trust as an attorney and Certified Public Accountant, as well as attempted to obstruct justice by influencing witnesses.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking, suspending, or otherwise imposing discipline upon Certified Public Accountant Certificate Number CPA 48092, issued to Wade Vincent Shang;

2. Ordering Wade Vincent Shang to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

3. Taking such other and further action as deemed necessary and proper.

DATED: November 9, 2006

  
CAROL SIGMANN  
Executive Officer  
California Board of Accountancy  
Department of Consumer Affairs  
State of California  
Complainant

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